



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------|
| 09/992,302 | 11/19/2001 | Qiang Yu | 205355X3404 | 7405 |
| 23460 | 7590 | 12/17/2003 | | |
| LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780 | | | EXAMINER SHOSHO, CALLIE E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1714 | |

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,302

Applicant(s)

YU ET AL.

Examiner

Callie E. Shosho

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-20 and 23-32 is/are rejected.
- 7) ☒ Claim(s) 21-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. All outstanding rejection except for those described below are overcome by applicants amendment filed 10/14/03.

Further, the restriction requirement as set forth in paragraphs 1-5 of the office action mailed 7/8/03 is rendered moot in view of the cancellation of claims 1-13 and 33-36.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 14-20 and 23-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Veeramasuneni et al. (U.S. 6,409,824).

The rejection is adequately set forth in paragraph 8 of the office action mailed 7/8/03 and is incorporated here by reference.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Veeramasuneni et al. (U.S. 6,409,824) in view of Hashimoto et al. (U.S. 4,174,230).

The rejection is adequately set forth in paragraph 11 of the office action mailed 7/8/03 and is incorporated here by reference.

Response to Arguments

6. Applicants arguments regarding WO 00/06518 have been considered but they are moot in view of the discontinuation of the use of this reference against the present claims.

7. Applicants' arguments filed 10/14/03 have been fully considered but, with the exception of arguments relating to WO 00/06518, they are not persuasive.

Specifically, applicants argue that while Veeramasuneni et al. disclose using polyphosphate and mixtures thereof, there is no disclosure or suggestion of the particular combination of 2 or more different types of phosphate materials as presently claimed.

However, it is noted that col.9, lines 58-60 of Veeramasuneni et al. explicitly disclose the use of sodium trimetaphosphate and ammonium polyphosphate. Thus, it is clear that Veeramasuneni et al. do disclose using two different types of phosphate as presently claimed. Further, col.18, line 66-col.19, line 2 of Veeramasuneni et al. discloses that a mixture of phosphate compounds can be used while col.9, lines 26-64 discloses that the phosphates include trimetaphosphate salts, sodium hexametaphosphate, and monobasic phosphate salts.

In light of the above, it is clear that Veeramasuneni et al. do disclose using at least two types of phosphate salts as presently claimed.

Allowable Subject Matter

8. Claims 21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 21-22 would be allowable if rewritten in independent form as described above for the following reasons.

Veerasuneni et al. (U.S. 6,409,824) disclose set gypsum-containing composition which is post-set treated with phosphate. While Veerasuneni et al. disclose the use of a polymer, the polymer is part of the gypsum-containing composition, i.e. pre-set composition, not part of the post-set treatment as required in the present claims. There is no disclosure or suggestion in Veerasuneni et al. of forming composition of inorganic phosphate salts and polymer which is then applied to the set gypsum-containing material as required in present claims 21-22.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Application Number: 09/992,302

Page 5

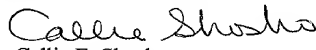
Art Unit: 1714

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Callie E. Shosho
Primary Examiner
Art Unit 1714

CS
12/5/03